

## GEORGIA DEPARTMENT OF EDUCATION

### SCHOOL NUTRITION PROGRAM

#### Civil Rights Compliance Requirements

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and sex or reprisal or retaliation for prior civil rights activity. The USDA regulations at 7 CFR 15 require school food authorities participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP) or Special Milk Program (SMP) to comply with requirements respecting nondiscrimination. School food authorities (SFA) must comply with the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);
- Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);
- Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);
- Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131-12189);
- Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." (August 11, 2000);
- All provisions required by the implementing regulations of the Department of Agriculture (USDA) (7 CFR Part 15 et seq.);
- Department of Justice Enforcement Guidelines (28 CFR Parts 35, 42 and 50.3);

Additionally, school food authorities must comply with Food and Nutrition Service (FNS) directives and guidelines to the effect that, no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program or activity for which the Program applicant receives Federal financial assistance from USDA.

Specific directions for implementing these statutes and regulations are contained in the FNS Instruction 113-1, Civil Rights Compliance and Enforcement-Nutrition Programs and Activities, November 8, 2005. Areas of compliance are required as spelled out by FNS Instructions 113-1.

## Disability Compliance

SFAs must make modification to accommodate disabilities. Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) prohibits discrimination on the basis of disability in programs and activities that receive Federal financial assistance, such as the Child Nutrition Programs. Title II of the Americans with Disabilities Act of 1990, as amended (ADA) prohibits discrimination based on disability in the provision of State and local government services, such as public schools. Title III of the ADA prohibits discrimination based on disability by private entities that provide public accommodations, including private schools. The ADA applies regardless of whether or not a school receives Federal financial assistance. Section 504, Title II, and Title III require recipients of Federal financial assistance, such as SFAs, to make reasonable modifications to accommodate children with disabilities, including reasonable modifications to meals and the meal service.

USDA regulations at 7 CFR 15b, "Nondiscrimination on the Basis of Handicap in Programs and Activities receiving Federal Financial Assistance" implements Section 504's nondiscrimination requirements. 7 CFR 15b.26(d) requires recipients of Federal financial assistance, such as SFAs, to serve special meals at no extra charge to children with disabilities. In addition, Program regulations at 7 CFR 210.10(m) and 220.8(m) require SFAs to make substitutions to meals to accommodate children with disabilities that restrict their diet.

Section 504, the ADA, and Departmental Regulations at 7 CFR part 15b define a person with disability as any person who has a physical or mental impairment which substantially limits one or more "major life activities," has a record of such impairment, or is regarded as having such impairment."

## Substitutions and other Reasonable Modifications

1. SFAs must make reasonable modifications to the meal, including providing special meals at no extra charge, to accommodate disabilities which restrict a child's diet.
2. SFAs must provide modifications for children with disabilities on a case-by-case basis only when requests are supported by a written statement from a State licensed healthcare professional, such as a physician or nurse practitioner (medical statement). See 7 CFR 210.10(m), and 220.8(m). In addition, meals that do not meet the Program meal pattern are not eligible for reimbursement unless supported by a medical statement.
3. SFAs may choose to accommodate requests related to a disability that are not supported by a medical statement if the requested modifications can be accomplished within the Program meal pattern.
4. SFAs may consider expense and efficiency in choosing an appropriate approach to accommodate a child's disability. SFAs are not required to provide the specific substitution or other modification requested but must offer a reasonable modification that effectively accommodates the child's disability and provides equal opportunity to participate in or benefit from the program.
5. SFAs must provide all meal services in the most integrated setting appropriate to the needs of the disabled child.

## Reimbursement

Reimbursement for modified meals served to children with disabilities that restrict their diet is at the appropriate rate based on the child's eligibility for free, reduced price, or paid meals for the applicable Program, regardless of the meal modification.

- a) The statement that informs the public that program benefits and services are available to all children without regard to race, color, national origin, age, disability, and sex.
  - b) The procedure for filing a complaint, which includes whom to contact.
2. Inform parents, as well as the local minority and grass roots organizations of the nondiscrimination policy and all significant changes in requirements that pertain to program eligibility and benefits.
  3. Display the "And Justice for All" poster in a prominent place.
  4. Provide vital information, including Web-based information, in alternative formats for persons with disabilities.
  5. Ensure meaningful access to vital information, program requirements and procedures for filing a complaint and web-based information, in appropriate language(s) for people with limited English proficiency. This can be accomplished using qualified, competent interpreters and materials translated in frequently encountered languages by qualified, competent translators.

#### Data Collection and Reporting

1. Develop a method for collection of actual numbers of children by race and ethnicity applying for free and reduced-price meals. Methods include determination by a school official through observation, personal knowledge or voluntary self-identification by an applicant on the free and reduced-price meal application form.
2. Self-identification or self-reporting is the preferred method of obtaining characteristic data. Ethnicity must be collected first. Respondents must be offered the option of selecting one or more designations for race. The minimum designations for race and ethnicity collection must be consistent with guidance from OMB and the U.S. Census Bureau. As of 2010, the minimum designations for collection are as follows:
  - a) Ethnicity:
    - Hispanic or Latino
    - Not Hispanic or Latino
  - b) Race:
    - American Indian or Alaskan Native
    - Asian
    - Black or African American
    - Native Hawaiian or Other Pacific Islander
    - White
3. In instances where demographic data, specifically racial/ethnic data, is collected via an online system, provisions must be made for the program applicant/participant to self-identify. Once the data is collected via the online system, the program applicant/participant must then be able to verify this data by signing some type of summary printout of this information or by attesting to the correctness and accuracy of the data in some manner.
4. Program applicants and participants should be encouraged to provide the information by explaining the statistical data is requested solely to determine the school food authorities' compliance with Federal civil rights laws.

5. Make its employees available to FNS CRD to be interviewed as necessary during investigations, including for purposes of providing sworn testimony and clarifying general information.
6. Grant FNS CRD access to SFA facilities, and complaint, communications, records and other systems, as necessary during investigations.
7. Participate in attempts to resolve the complaint.
8. Provide communication assistance, other modifications or accommodations and/or alternative formats when communicating with individuals who have limited English proficiency, individuals with disabilities, or individuals who are illiterate.
9. Forward all complaints to FNS CRD at:

Regional Civil Rights Director  
 U.S. Department of Agriculture  
 Food and Nutrition Service  
 Southeast Region  
 61 Forsyth Street, S.W.  
 Room 8T36  
 Atlanta, Georgia 30303  
 (Office) 404-562-7033  
 (Fax) 404-527-4517

Or

USDA  
 Office of the Assistant Secretary for Civil Rights  
 1400 Independence Avenue, SW  
 Washington, D.C. 20250-9410  
 Fax 202-690-7442  
 Email [program.intake@usda.gov](mailto:program.intake@usda.gov)

10. A written complaint should simply be forwarded as received; if the complaint is verbal, the attached form should be completed and mailed. Verbal complaints should be written up by the person to whom the complaint is made. Every effort should be made to have the complainant provide the information on the attached form.

#### Compliance Reviews

1. SFAs are subject to routine compliance reviews in accordance with FNS Instruction 113-1 and program-specific regulations, policies, instructions, and guidelines. The state agency may expand the scope of the review to address potential compliance concerns.
2. SFAs must review their subrecipients as required by current program regulations and Civil Rights requirements.